

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

TEACHERS INSURANCE AND :
ANNUITY ASSOCIATION OF AMERICA,:

Plaintiff, :

v. :

MELANIE SIMONS, :

Defendant. :

Case No.: 1:21-cv-03712 (ALC) (SLC)

**~~PROPOSED~~ STIPULATED ORDER GOVERNING DISCOVERY
OF DOCUMENTS AND ELECTRONICALLY STORED INFORMATION**

Plaintiff Teachers Insurance Annuity Association of America and Defendant Melanie Simons (collectively, the “Parties”) through their counsel, stipulate and agree to produce electronically stored information (“ESI”) in this case in accordance with the following procedures, and agree to be bound by this stipulation pending approval by the Court. The Parties further agree that, to the extent they have produced documents in this action before approval of this stipulation by the Court, they will re-produce such documents in accordance with the below specifications.

I. GENERAL GUIDELINES

This Order Governing Discovery of Documents and Electronically Stored Information (the “Protocol”) will govern the discovery of documents and ESI in this matter as a supplement to the Federal Rules of Civil Procedure, the Local Rules of Civil Procedure for the United States District Court for the Southern District of New York, and the Court’s Policies and Procedures.

This Protocol is not intended to expand any document preservation or production requirements under the Federal Rules of Civil Procedure or limit any protection available to a

Party under those Rules or the Federal Rules of Evidence. The Parties will endeavor to comply with this Protocol, but if compliance creates an undue burden or expense, the Parties shall attempt to resolve such issues in good faith.

II. COLLECTION OF ESI

The Parties will meet and confer regarding any proposed limitations on the scope of discovery, including custodians, custodial and non-custodial sources, date ranges, file types, or any additional proposed method to cull documents for review (*e.g.*, search terms, technology-assisted-review, predictive coding).

III. PRODUCTION OF ESI

a. Format

1. Electronic Production of Paper Documents

The Parties shall produce any paper documents, including spreadsheets maintained in paper form according to the following specifications: TIFF or PDF images.

2. Production of Native Files

The Parties shall include in all productions a separate folder that contains all native files that meet production requirements.

However, if producing native files of database application files in original native format would be impracticable, the Parties shall meet and confer regarding an appropriate format including whether there might be more efficient means of obtaining the information by report or an alternate source.

b. Metadata

All ESI will be produced with a delimited, deduplicated, database load file that contains the following metadata fields, to the extent they exist:

Field	Definition	Document Type
Bates Beg	Beginning Bates Number (production number)	All
Bates End	End Bates Number (production number)	All
Bates Beg Attach	Beginning page of attachment range	All
Bates End Attach	Ending page of attachment range	All
Attach Range	Bates range of entire family beginning with Bates Beg and ending with Bates End Attach	All
Custodian	Name of the custodian of the document produced	All
File Name	File name of document	All
File Extension	File extension of document	All
Native File	For documents provided in native format only – relative file path to each native file in the production	All
Confidentiality	Confidentiality Designation pursuant to Protective Order ¹	All
From	Sender	Email
To	Recipient	Email
CC	Additional Recipients	Email
BCC	Blind Additional Recipients	Email
Subject	Subject line of email	Email
Sent Date	Date Sent (mm/dd/yyyy)	Email
Sent Time	Time Sent	Email
Received Date	Date Received	Email
Received Time	Time Received	Email
Meeting Start Date/Time	Calendar/Appointment start date and time	Email, Various
Message Type	Type of item, e.g. email, calendar item, contact, note, task	Email, Various
Doc Type	Descriptive field created by the vendor processing software (e.g. email, e-doc, image, attachment)	All
Title	Title field value extracted from the metadata of native file	E-docs
Author	Creator of a document	E-docs
Created Date	Creation Date (mm/dd/yyyy)	E-docs
Created Time	Creation Time	E-docs
Last Saved By	Last Saved field contained in the metadata of the native file	E-docs
Last Modified Date	Last Modified Date	E-docs
Last Modified Time	Last Modified Time	E-docs
File Extension	File extension of the native file (e.g., XLS, DOC, PDF)	All

¹ In the event that the metadata and branding for confidential designation do not match, the Receiving Party shall, upon discovery of the issue, immediately notify the Producing Party within fourteen (14) days, and from the time of discovery of the issue until the appropriate confidential designation is specified by the Producing Party, the Receiving Party shall treat the document consistent with the higher level of confidentiality.

Metadata Field names may vary depending on the application which generates them. The metadata produced shall have the correct encoding to enable preservation of the documents' original language.

For ESI other than e-mail and e-docs that do not conform to the metadata listed in the above table, such as text messages, Teams, Yammer, Slack, etc., the Parties will meet and confer as to the appropriate metadata fields to be produced.

c. Embedded Objects

Embedded files shall be produced as attachments to the document that contained the embedded file, with the parent/child relationship preserved. Logos and other image files need not be extracted as separate documents as long as they are displayed legibly in the parent document.

d. Attachments

The parties may withhold responsive documents and/or attachments on the basis of attorney-client privilege or work product protection. If within a particular document family one or more documents is produced and one or more documents is withheld, a slip sheet stating that the document(s) has/have been withheld shall be produced.

The Parties will meet and confer about whether there is an appropriate basis for withholding a family document for any reason other than attorney-client privilege or work product protection.

The attachments will be produced sequentially after the parent e-mail.

e. Structured Data

To the extent a response to discovery requires production of structured data stored in a database, the Parties will meet and confer regarding methods of production. The Parties will

consider whether all relevant information may be provided by querying the database for discoverable information and generating a report in a reasonably usable and exportable electronic file.

f. Encryption

The producing Party will take reasonable steps, prior to production, to unencrypt any discoverable ESI that exists in encrypted or password-protected format.

g. Extracted Text

ESI shall be processed, to the extent practicable, in a manner that preserves hidden columns or rows, hidden text, notes, or worksheets, speaker notes, tracked changes, redlines and comments. Upon reasonable request, a producing Party will produce files with any such information in native format, to the extent it is not otherwise visible.

h. Production Delivery

To maximize the security of information in transit, any media on which documents are produced must be encrypted. The Producing Party shall transmit the encryption key or password to the Receiving Party, under separate cover, contemporaneously with sending the encrypted media.

i. Redactions

Parties may redact information that is subject to the attorney-client privilege and work product protection. Each redaction must be accompanied by redaction text indicating the basis for the redaction. If documents that the Parties have agreed to produce in native format need to be redacted, the Parties will meet and confer regarding how to implement redactions while ensuring that proper formatting and usability are maintained.

IV. MODIFICATION

This Protocol may be modified by stipulated request, subject to Court approval, or by the Court for good cause shown.

SO STIPULATED, this 30th day of June, 2022:

/s/Christopher C. Coss

Christopher C. Coss

Thomas J. Momjian

Counsel for Plaintiff Teachers Insurance and Annuity Association of America

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/s/Kara M. Maciel

Kara M. Maciel

Counsel for Defendant Melanie Simons.

Conn Maciel Carey LLP

5335 Wisconsin Avenue, NW, Suite 660

Washington, DC 20015

SO ORDERED, this 7th day of July, 2022,



Sarah L. Cave

UNITED STATES MAGISTRATE JUDGE